

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

|                     |   |                   |
|---------------------|---|-------------------|
| GEORGE L. ROSAS     | § |                   |
| TDCJ-CID #711998    | § |                   |
| V.                  | § | C.A. NO. C-05-102 |
|                     | § |                   |
| PATSY PEREZ, ET AL. | § |                   |

**ORDER GRANTING PLAINTIFF'S  
MOTION TO AMEND THE NOTICE OF APPEAL**

This is a civil rights action filed by a Texas state prisoner pursuant to 42 U.S.C. § 1983. Pending is plaintiff's motion for leave to amend his notice of appeal. (D.E. 71).


On November 3, 2005, final judgment was entered. (D.E. 60). On December 1, 2005, plaintiff filed a timely notice of appeal of the final judgment. (D.E. 64). On November 4, 2005, plaintiff filed a timely motion to reconsider. (D.E. 61). On that same day, he also filed a motion to amend his complaint. (D.E. 62). The motion to amend was denied on January 25, 2006. (D.E. 68). The motion to reconsider was denied on February 2, 2006. (D.E. 70).

Plaintiff seeks to amend his notice of appeal to include the order denying his motion to reconsider and the order denying his motion to amend as well as the final judgment. (D.E. 72). A notice of appeal of the final judgment limits the appeal to any issues raised prior to the final judgment and excludes issues raised after the

final judgment. Capital Parks, Inc. v. Southeastern Advertising & Sales Sys., Inc., 30 F.3d 627, 630 (5th Cir. 1994). Indeed, plaintiff's motion to reconsider negated his first notice of appeal and created the need for his second amended notice of appeal in order for there to be appellate jurisdiction. Birdsong v. Wrotenbery, 901 F.2d 1270, 1272 (5th Cir. 1990). Plaintiff's motion to file the amended notice of appeal is timely. Mortgage Guar. Ins. Corp. v. Richard Carlyon Co., 904 F.2d 298, 299-300 (5th Cir. 1990); Fed. R. App. P. 4(a)(4).

Accordingly, plaintiff's motion to amend his notice of appeal, (D.E. 71), is GRANTED.

ORDERED this 9th day of February 2006.

  
BRIAN L. OWSLEY  
UNITED STATES MAGISTRATE JUDGE